IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.1988 of 2003

Date of Decision: 21.09.2006

Sanwar Mal ...Petitioner

Vs.

Mani Ram & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Ms.Kamalpreet, Advocate,
for the petitioner.

Mr.G.P.Singh, Advocate,
for the respondents.

Vinod K.Sharma, J. (Oral)

This Court vide order dated 31.8.2004 was pleased to direct the petitioner herein to pay to the landlord or deposit with the Rent Controller, Sirsa the deficient rent along with interest and costs. Order dated 31.8.2004 reads as under:-

> " Both the Courts below have ordered ejectment of the tenant-petitioner on the ground that the rent tendered by the tenant-petitioner is deficient than the one which was payable. The rent has been tendered at the rate of Rs.100/- per month whereas the rent payable is Rs.150/- per month.

Learned counsel for the petitioner has argued that by virtue of judgment of the Supreme Court in the case of **Vinod Kumar Vs. Prem Lata 2003 (11) SCC 397,** the Rent Controller was required to determine the rate of rent and to draw a provisional order of assessment of rent. As the afore-mentioned course has not been followed by the rent Controller, the opportunity to deposit the rent in accordance with the order of assessment, which was required to be granted by the Rent Controller has been lost.

A perusal of findings recorded by both the courts below shows that the rate of rent is Rs.150/- p.m. The tenant-petitioner has deposited the rent from 1.4.1991 to 31.3.2001 @ Rs.100/- p.m. and has not paid any rent after 1.4.2001. By this order, an opportunity, which was required to be granted to the tenant-petitioner is hereby granted and the tenant petitioner shall deposit the difference of rent from 1.4.1991 to 31.3.2001 and further rent from 1.4.2001 to 31.8.2004 @ Rs.150/- p.m. within a period of two months from today. The tenant-petitioner may pay to the landlord-respondent or deposit with the Rent Controller, Sirsa. He shall also pay cost of Rs.5000/- + interest @ 6% per annum on all the arrears.

To come up for further consideration on 1.11.2004. A copy of this order be given dasti on payment of usual charges."

In pursuance to the said order the tenant has paid the arrears of rent along with interest and costs. However, house-tax which was not paid

also stands paid. The courts below have ordered the ejectment of the petitioner on account of short tender without giving opportunity to the petitioner to make good the same. As the rent has been paid,the ground for non-payment of rent is not available to the landlord.

Accordingly, this revision petition is allowed and the ejectment petition is dismissed.

(Vinod K.Sharma)
21.09.2006 Judge
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